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Federal Communications Commission
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of	)	
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Review of the Commission's Regulations Governing Television Broadcasting	)	**MM Docket No. 91-221**
	)	
Television Satellite Stations Review of Policy and Rules	)	**MM Docket No. 87-8**

COMMENTS OF THE DISPATCH BROADCAST GROUP

The Dispatch Broadcast Group ("Dispatch") hereby submits its comments in response to the Commission's Further Notice of Proposed Rulemaking ("FNPRM") in this proceeding. The Dispatch Broadcast Group includes the following commercial broadcast stations: WBNS-TV, Channel 10 in Columbus Ohio (a CBS affiliate), WTHR-TV, Channel 13 in Indianapolis, Indiana (an NBC affiliate), and WBNS-AM and WBNS-FM in Columbus, Ohio.[1] In addition, the parent company of the Dispatch Broadcast Group, the Dispatch Printing Company, publishes the Columbus Dispatch daily newspaper.

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[1] The Dispatch Broadcast Group also includes the licensee of a Low Power Television Station on Channel 27 in Indianapolis, IVDS authorizations in Columbus and Indianapolis, and three radio networks: The Ohio State Buckeyes Radio Sports Network, The Ohio News Network and the Radio Sound Network in Columbus, Ohio.

INTRODUCTION AND SUMMARY

The free, over-the-air television business has changed dramatically since WBNS-TV first signed on the air in 1948. In particular, the advent of cable television, virtually a negligible competitive factor twenty years ago, has dramatically and permanently changed the way a majority of the American public receives its video programming. Cable television's multiple offerings have increasingly gained viewer and advertiser acceptance in the marketplace and have clearly demonstrated that broadcast television stations are only one of several ways in which the American public will receive its news, public affairs and entertainment programming in the future.

The Dispatch Group strongly encourages the Commission to recognize these fundamental changes and to amend its rules to permit television broadcasters to compete in this dynamic marketplace. Specifically, the Dispatch Group urges the Commission to permit local duopolies when one of the stations broadcasts on a UHF channel. In addition, the Dispatch Group supports the Commission's proposal to change the trigger for prohibited television duopolies from an overlap of the Grade B contour to an overlap of the Grade A contour. These changes will permit established local broadcasters like the Dispatch Group to meet the competitive challenges of the cable industry and, at the same time, ensure the continued ability of television broadcasters like Dispatch to provide the highest quality, free, over-the-air news, entertainment, local public affairs and children's programming.

COMPETITION FROM THE CABLE INDUSTRY

Competition from the cable industry is here to stay. The average cable home receives, in addition to six over-the-air commercial television stations, over thirty cable channels, including a variety of basic cable networks, pay cable services and pay-per-view offerings. Review of the Prime Time Access Rule, FCC 94-123, Notice of Proposed Rule Making ¶ 18 n.30, p. 11 (released October 24, 1994). Cable subscribers are increasingly taking advantage of these viewing options.

In 1994, basic cable networks collectively received an overall total-day audience share of 38 in all cable homes (26 in all television households) and a 22 share during prime time in cable-homes. Cable TV Advertising, Paul Kagan Associates, Inc., February 28, 1995, at 4.[2] At the same time, the combined audience share of the big three networks in prime time fell to an all-time regular season low of 57 for the 1994-95 season. "Big

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[2] In fact, in 1994, the combined total-day audience share of the basic cable networks and the various pay services (e.g., HBO, Showtime) almost equaled the combined total-day audience share of commercial, over-the-air broadcasters (networks plus independents) in pay cable homes (a combined 52 for cable services vs. a combined 58 for over-the-air commercial broadcasters). Id.

Three Post Record Share Slide," Broadcasting & Cable, at 8 (April 10, 1995).

The basic cable networks have made these gains primarily at the expense of the big three networks. The cause of the big three networks' decline in 1994-95 prime time was in part due to the cable networks' aggressive development of "more original entertainment fare." "Big Three Post Record Share Slide," Broadcasting & Cable, April 10, 1995, at 8. During the 1994-95 season, basic cable channels were the principal beneficiary of the networks' collective decline, adding 2.7 share points (or 1.6 million homes) to their average prime time viewing in this season alone. Id.

Moreover, the popularity of the basic cable networks has been growing rapidly. Since 1983, the basic cable networks' total-day audience share in cable-homes has grown from a 15 (7 in all television homes) to a 29 (18 in all television households) in 1989 to its current 38 share (26 in all television households) in 1994. Id.[3] These numbers reflect an astounding 253 percent increase in total-day audience share in cable homes from 1983 to 1994 and a 371 percent increase in total-day audience share among all television households. By contrast, the combined big three

[3] This trend continued in the first quarter of 1995. Basic cable networks received an overall total-day audience share of 38 in cable-homes and a 22 share of the prime time cable-home audience.

networks' audience share has declined by 25 percent in cable homes (from 59 to 44) and 19 percent in all television households (from 70 to 57). Id.

These audience share results clearly lead to one unmistakable conclusion: cable television is a real, competitive threat to free, over-the-air television broadcasters. Unlike television broadcasters, however, the cable industry has been largely free to pursue both horizontal and vertical integration that has dramatically improved the industry's ability to compete with over-the-air television broadcasters.

In particular, a number of the largest cable network programmers have expanded horizontally to increase the number of programming channels they offer. These new networks have been launched very efficiently because existing basic cable programmers already have their sales, promotional and administrative infrastructure in place. This efficiency allows these programmers to develop and exploit new audience segments at small incremental costs which in turn allows them to attract more and more advertising revenue which funds even further audience exploitation and development. More importantly, by capitalizing on these efficiencies, national cable programmers are able to devote a larger percentage of their overall revenues to the acquisition and development of programming.[4]

Cable MSOs have also played a role in increasing the cable industry's competitive threat to over-the-air television broadcasters. The recent trend of cable MSOs toward horizontal consolidation (i.e., clustering) has been well documented. "Cable Clustering Makes For Active Market: virtually all top system operators make or consider deals during the past year," Broadcasting & Cable, March 6, 1995, at 53. This horizontal consolidation has permitted cable MSOs to compete more efficiently with over-the-air television broadcasters for local advertising revenue.

Cable MSOs have traditionally functioned like television network affiliates, receiving a portion of available advertising time on each of the cable networks they carried. In competing with television broadcasters for local advertising sales, cable MSOs were at a disadvantage because they could not deliver an entire local market in a single advertising sale.

Clustering helps to eliminate this disadvantage. Through clustering, cable MSOs can sell local advertising time in the various basic cable networks for their cluster's entire

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[4] Cable MSOs have also used their national subscriber base to integrate vertically into cable networks, thereby improving the ability of these cable networks to launch additional programming channels by guaranteeing substantial nationwide clearances.

geographic region, rather than merely a subset of the area. Even in markets not owned by a single cable MSO, local cable operators across the region still compete with television broadcasters for advertising revenue. In the Columbus and Indianapolis markets, for example, the major cable systems have formed formal or informal Interconnects that permit the cable systems to sell commercial inventory on a variety of basic channels across the market. Unlike the sales teams of Dispatch's WBNS-TV and WTHR-TV, these interconnects can sell a number of channels to the same local advertisers with <u>one sales staff</u>.

PROPOSED COMMISSION RESPONSE

The Dispatch Group urges the Commission to relax its local ownership rule to permit duopolies where one of the stations broadcasts on a UHF channel. By doing so, the Commission will enable over-the-air broadcasters to achieve the same efficiencies already enjoyed by the cable industry. These efficiencies will, in turn, ensure the continued ability of television broadcasters like Dispatch to compete with the cable industry and continue to provide the highest quality, free, over-the-air news, entertainment, local public affairs and children's programming.[5]

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[5] Although Dispatch recognizes that the Commission is currently unable to reevaluate the newspaper cross-ownership restriction, Dispatch nonetheless urges the Commission to do so at the first opportunity available to it. There are a number of pro-competitive, pro-diversity benefits that flow from newspaper-
(continued...)

Dispatch believes that local television duopolies will create significant economies of scale for television operators. Dispatch estimates that these savings -- in eliminating many duplicative functions like engineering, traffic, and accounting as well as duplicative costs like rent, taxes, and insurance -- will equal between 15-25 percent of the combined operating budgets of two stand-alone stations.[6] Duopolies will also make investments in local programming easier to justify because both the risks and initial costs of starting or expanding a local news operation, for example, can be spread over two stations rather than one.

These potential benefits should not be ignored by the Commission. By enabling experienced local broadcasters like Dispatch to achieve these efficiencies, it will permit these broadcasters to expand their investments in the kinds of high-quality, local public affairs and children's programming the Commission is interested in developing. The Dispatch Group's significant investments in WBNS-TV's critically acclaimed local

[5] (...continued) television cross-ownership that the Commission's rule currently prevents the market from fully developing. In addition, the growth of cable television and the imminent arrival of even more channels from VDT, wireless cable and DBS, dramatically demonstrate that the American public will always have available a wide variety of viewpoints and programming alternatives.

[6] As demonstrated in the next subsection, these significant efficiencies will be created while separate identities of the stations will be maintained, and indeed enhanced, by the duopoly. This result applies because a duopoly owner has absolutely no incentive to program both stations to attract the same audience.

10-TV Eyewitness News broadcasts and KidsNews Network programs are just a few of the examples of the type of programming that could be expanded and developed with these savings.

WBNS-TV's 10-TV Eyewitness News team is the recognized television news leader in Columbus. WBNS-TV produces four hours of local news each weekday and an additional four and one-half hours of local news on weekends. In addition, the station regularly produces a weekly health magazine show, has just started a weekly news program covering developments at the state capital and regularly produces local news specials that it airs in prime time. WBNS-TV's KidsNews Network is a weekly half-hour children's newscast produced at WBNS-TV with only local children for its on-air talent. Additional development of these types of programs, combined with the use of the market knowledge and experience gained in producing them, are among the benefits that would result from local duopolies.

Permitting local duopolies will also increase, not decrease, overall competition in the marketplace by permitting established local broadcasters like Dispatch to begin to develop an audience for weaker, relatively uncompetitive UHF stations in their markets. At a time when free, over-the-air television is increasingly challenged by a variety of services that charge for their services -- including cable, the imminent arrival of video dialtone service ("VDT") and digital wireless cable by the Regional Bell Operating Companies and direct broadcast satellites

("DBS") -- any actions the Commission can take to strengthen television broadcasting's economic foundation is decidedly in the public interest.

The Dispatch Group also supports the proposed change in the television duopoly rule narrowing prohibited duopolies from overlapping Grade B contours to overlapping Grade A contours. Such a rule would permit local broadcasters to achieve some of these same efficiencies on a regional basis. Moreover, the rule would more accurately reflect the focus of competition for over-the-air television broadcasters in today's increasingly competitive marketplace.

For these same reasons, even in the event the Commission permits duopolies subject to a market size test, the Dispatch Group nonetheless urges the Commission to change the trigger for prohibited duopolies from the Grade B to the Grade A contour. Such a rule would enable local broadcasters to achieve regional efficiencies and would more accurately reflect the real market focus in the competition for audience and advertisers.

CONCLUSION

Because basic cable channels do provide a real competitive threat to free, over-the-air television broadcasters, both for local viewers and advertisers, the Commission should not ignore their substitutability for over-the-air broadcasters in evaluating competition in local markets. The pending arrival of VDT, wireless cable and DBS services will only add to this competition.

For these reasons, the Broadcast Dispatch Group submits that the Commission should permit local duopolies where one station broadcasts on a UHF channel. In this way, the Commission will insure that the American public continues to receive the highest quality, free, over-the-air news, entertainment, local public affairs and children's programming.

Respectfully submitted,

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